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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/590,488	06/09/2000	Dean F. Jerding	A-6600	2510
5642	7590	06/30/2005	EXAMINER	
SCIENTIFIC-ATLANTA, INC. INTELLECTUAL PROPERTY DEPARTMENT 5030 SUGARLOAF PARKWAY LAWRENCEVILLE, GA 30044			BELIVEAU, SCOTT E	
			ART UNIT	PAPER NUMBER
			2614	

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/590,488

Applicant(s)

JERDING ET AL.

Examiner

Scott Beliveau

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 38-50, 56-60 and 70-73 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 38-50, 56-60 and 70-73 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of Group I in the reply filed on 22 February 2005 is acknowledged.

***Priority***

2. With respect to the applicant's request for receiving benefit to an earlier filing date under 35 U.S.C. 119(e), it is the examiner's opinion that adequate support under 35 U.S.C. 112 for claims 38-50 and 56-60 is found in conjunction with the "Client User Interface Specification for Video-On-Demand Application Development on the Explorer 2000™ Digital Home Communications Terminal" by Shashi Goel which generally sets forth the process flow for determining active sessions and subsequently providing different options depending upon the existence of active sessions. The "System Architecture Specification for Video-On-Demand Application Development on the Explorer 2000™ Digital Home Communications Terminal" by Timothy Addington appears to provide support for the concept of reestablishing sessions due to service interruptions. The examiner is unclear as to where support is found in the provisional application for newly added claims 70-73. Accordingly, claims 38-50 and 56-60 receive the benefit of the earlier filing date of 11 June 1999.

***Response to Arguments***

3. Applicant's arguments with respect to claims 38-50, 56-60, and 70-73 have been considered but are moot in view of the new ground(s) of rejection.

With respect to applicant's remarks that the combined Goode et al. and Dunn et al. reference fail to teach or suggest the newly added limitation pertaining to "reactivating" sessions, the examiner respectfully disagrees as set forth in the grounds of rejection.

### *Drawings*

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the particular process flow including the newly added limitation of "responsive to determining that the at least one current rental exists and no active VOD session exists for the first VOD presentation, determining whether the first VOD presentation has been reactivated; [and] responsive to determining that the first VOD presentation was reactivated, setting up another active VOD session for the first VOD presentation" must be shown or the feature(s) canceled from the claim(s). The examiner's understanding is that the subject matter appears to be most closely represented by Figures 5 and 6. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be

necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Claim Objections*

5. Claims 70 and 72 are objected to because the usage of the term "session" is inconsistent with the previous recitation of "active session". The examiner subsequently suggests amending claim 70 to read "wherein if the another active session setup fails, retrying the active session setup at various time intervals" in order to improve the clarity of the claim language. Appropriate correction is required.
6. Claims 71 and 73 are objected to because the usage of the term "the most recently viewed current rental to the least recently viewed current rentals" lacks proper antecedent basis to the earlier recitation in claims 38 and 56 respectively. It is unclear as to the relationship between "the most recently viewed current rental" and the usage of the "first VOD presentation". The examiner shall presume that the claim should merely reference "a most recently viewed current rental" and "a least recently viewed current rental". Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 71 and 73 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 71 and 73 set forth that based upon the existence of multiple rentals, the system “sets up a session from the most recently viewed current rental to the least recently viewed current rentals”. The specification as originally filled sets forth that if the session is not active, another MOD session may be established wherein if multiple rentals exist the session for the most recently viewed title would be established (IA: Page 27, Lines 26-32). Accordingly, the claim appears to only be supported for the establishment of a session for the most recently viewed current rental in connection with the determining step as opposed to setting up session from the most to least recently viewed presentations.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(f) he did not himself invent the subject matter sought to be patented.

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10. Claims 38-50, 56-60, and 70-73 are rejected under 35 U.S.C. 102(f) because the applicant did not invent the claimed subject matter. Per the earlier analysis with respect to the priority of the instant application, claims 38 and 56 appear to be supported in light of the documents entitled "Client User Interface Specification for Video-On-Demand Application Development on the Explorer 2000™ Digital Home Communications Terminal" by Shashi Goel (of record) and the "System Architecture Specification for Video-On-Demand Application Development on the Explorer 2000™ Digital Home Communications Terminal" by Timothy Addington (of record). As previously submitted under 37 CFR 1.132 (12 April 2004), Sashi Goel indicated that the subject matter of the "Client User Interface Specification" document corresponding to the previously presented claims 38 and 56 was also commonly invented by Dean Jerding, Robert Banker, and Valerie Gutknecht. Support for applicant's newly added limitations pertaining to the restarting of sessions appears to be found in the aforementioned document which designates Timothy Addington as the author. Accordingly, as evidenced by the Timothy Addington document, it would appear that the inventive entity should also include Timothy Addington.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
13. Claims 38-41, 56, 57, and 70-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goode et al. (US Pat No. 6,166,730) in view of Dunn et al. (US Pat No. 5,721,829).

In consideration of claims 38 and 56, the Goode et al. reference discloses a method implemented by a “digital home communication terminal (DHCT)” [118] comprising “memory” [518/520] implicitly storing “program code” so as to control the operation of the terminal via an interactive interface such as the OnSet™ system (Col 13, Line 60 – Col 14, Line 10). The method comprises “determining if at least one current rental exists” and “responsive to determining that at least one current rental exists” (ex. which rentals have not expired) “determining whether an active video-on-demand (VOD) session for a first presentation exists” associated with the particular active usage or playback of the “first VOD presentation” by another user within the household. Subsequently, “responsive to determining that the active VOD session [for the first VOD presentation]” exists (ex. another user in the household is viewing the presentation), the user is “provided [with] a selectable option to view the first VOD presentation” in connection with an option to purchase another



copy of the first VOD presentation. Furthermore, “responsive to determining that the at least one current rental exists and no active VOD session exists for the first VOD presentation” (ex. no one in the household is currently viewing the presentation), the system “determines whether the first presentation has been reactivated” via a subsequent request to restart the presentation and “sets up another active VOD session for the first VOD presentation” in connection with playing back original presentation (Figure 11; Col 17, Line 55 – Col 20, Line 8).

The Goode et al. reference, however, is silent as to what occurs “responsive to determining that at least one current rental does not exist”. The Dunn et al. reference discloses a VOD system that “determines if at least one current rental exists” and “responsive to determining that at least one currently rental does not exist” it “provides a list of selectable VOD titles” (Col 7, Lines 20-34). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the Dunn et al. interface navigation so as to “provide a list of selectable VOD titles responsive to determining that at least one current rental does not exist” for the purpose of providing the user with a convenient means to facilitate the viewer’s browsing and ordering of video content if there are no current rentals and other inherent advantages associated therewith.

Claims 39 and 57 are rejected wherein the system “receives a user input configured to select the selectable option to view the first VOD presentation” whereupon the system “provides the first VOD presentation to a user” (Goode et al.: Figure 7).

Claims 40 and 41 are rejected wherein the apparatus is operable to “receive a first user input configured to select a VOD title form the list of selectable VOD titles”, to “provide a

selectable option for renting a second VOD presentation corresponding to the VOD title selected from the list of selectable titles”, and to “receive a second user input configured to select the selectable option for renting the second VOD presentation” (Goode et al.: Col 4, Line 55 – Col 5, Line 9; Col 14, Line 63 – Col 15, Line 33).

In consideration of claims 70 and 71, the Goode et al. reference discloses teaches that upstream communication signals derived from the “digital home communication terminal (DHCT)” [118] control the particular playback operations associated with the SCM for controlling the distribution of the media presentation (Col 13, Lines 54-64). The reference also teaches that the terminals may need to “retry . . . at various time intervals” based upon a random backoff interval should the particular distribution of these commands fail (Col 9, Lines 20-67). As aforementioned, the system “responsive to determining that the first VOD presentation was reactivated” acts to “set up another active VOD session of the first VOD presentation” with the SCM [220]. Accordingly, the claim meets the limitation of “wherein if the another session setup fails, retrying the session setup at various time intervals” such should the “digital home communication terminal (DHCT)” [118] fail in attempting to setup an active session with the SCM (ex. transmission failure of command due to message collisions), the “digital home communication terminal (DHCT)” [118] will subsequently retry at various time intervals.

In consideration of claims 71 and 73, as aforementioned, the Goode et al. reference “determines whether multiple current rentals exist” (Figure 11) and is capable of “setting up a session” in association with the playback of previously viewed current rentals on any order designated by the user (Col 18, Lines 21-33). Accordingly, the reference inherently

anticipates the particular intended use such that the system “sets up a session from the most recently viewed current rental to the least recently viewed current rentals” in response to the user designation of restarting viewed programs in the order of viewing. For example, assume a user purchases a first presentation, watches a portion of it and then purchases a second presentation and watches a portion it and subsequently stops watching the second presentation in order to pick the kids up from school. Upon returning home, the reference teaches that the user may choose to restart either the first or the second presentation. In restarting the “second presentation” and subsequently choosing to watch the “first presentation” to its conclusion, the system has set up an active “session from the most recently viewed current rental to the least recently viewed current rentals”.

14. Claims 42-50 and 58-59 are rejected under 35 U.S.C. 102(e) as being anticipated by Goode et al. (US Pat No. 6,166,730), in view of Dunn et al. (US Pat No. 5,721,829), and in further view of Casement et al. (US Pat No. 5,969,748).

In consideration of claim 42-46, the combined teachings do not particularly disclose nor preclude the usage of determining whether or not selected presentations are blocked via both parental control and purchase access codes. The Casement et al. provides a method for renting a VOD presentation wherein “responsive to receiving the second user input, determining whether the second VOD presentation is blocked”, the apparatus “prompts a user to provide a third user input identifying a first access code for unblocking the presentation”, and “receives the third user input identifying the first access code” [100/102]. Subsequently to “responsive to receiving the third user input identifying the first access code” [102], the user is “prompted . . . to provide a fourth user input identifying a second

access code” [106]. Accordingly, presuming that both the “first” and “second access codes” are correct, the apparatus “provides the user with the VOD presentation responsive to receiving the third user input” [110] (Casement et al.: Figure 3; Col 6, Lines 30-47).

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combined teachings with that taught by Casement et al. for the purpose of advantageously providing a means to control access to television programs associated with both regular and on-demand programming (Casement et al.: Col 1, Lines 5-8, 26-63).

In consideration of claim 47, while Casement et al. discloses the particular usage of “key-strokes” in conjunction with the user input device (Col 3, Lines 51-65), the reference does not explicitly disclose that the entry of the “first and second user inputs” are provided via a plurality of key-strokes”. Rather, the reference simply discloses that the passwords are entered, but does not particularly disclose how they are entered. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the aforementioned user input device so as to enter the multi-character passwords using a “plurality of key-strokes” for the purpose of providing a means or technique by which to facilitate the entry of the “first and second user inputs”.

Claim 48 is rejected wherein the “first and second access codes each includes a plurality of characters” (Casement et al.: Col 7, Lines 38-40).

Claim 49 is rejected wherein the “first user input enables the VOD presentation to be unblocked” (Casement et al.: Figure 4; Col 6, Line 48 – Col 7, Line 20).

Claim 50 is rejected wherein the “second user input enables the VOD presentation enables the VOD presentation to be rented” (Casement et al.: Figure 5; Col 7, Lines 21-31).

Claim 58 is rejected wherein the “program code is further configured to provide a second VOD presentation identified in the list of selectable VOD titles responsive to receiving a first user input selecting the second VOD presentation” (Goode et al.: Col 4, Line 55 – Col 5, Line 9; Col 14, Line 63 – Col 15, Line 33), a “second user input identifying a first access code, and a third user input identifying a second access code” (Casement et al.: Figure 3; Col 6, Lines 30-47).

Claim 59 is rejected wherein the “first user input enables the VOD presentation to be unblocked” (Casement et al.: Figure 4; Col 6, Line 48 – Col 7, Line 20).

Claim 60 is rejected wherein the “second user input enables the VOD presentation enables the VOD presentation to be rented” (Casement et al.: Figure 5; Col 7, Lines 21-31).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- The Giammaressi (US Pub No. 2003/0061619) reference discloses a system and method for bandwidth allocation in connection with VOD sessions.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until

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after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343. The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SEB  
June 18, 2005

  
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